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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,634	06/19/2006	Norbert Cottone	72274	8594
23872 7590 04/08/2008 MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227				
EXAMINER				
PARADISO, JOHN ROGER				
ART UNIT		PAPER NUMBER		
3721				
MAIL DATE		DELIVERY MODE		
04/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/596,634

Applicant(s)

COTTONE

Examiner

John R. Paradiso

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 5, 7, 8, 11, 12, 15, 16, 19, 21-23, 25-42, 44-46, 48, 50, 53-55, 59 and 60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 5, 7, 8, 11, 12, 15, 16, 19, 21-23, 25-42, 44-46, 48, 50, 53-55, 59 and 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendments

1. In view of the amendments filed 1/7/2008, the objections to the claims are hereby withdrawn.

Claim Rejections

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 5, 7-8, 11-12, 15-16, 19, 21-23, 25-42, 44-46, 48, 50, 53-55, and 59-60 are rejected under 35 U.S.C. § 103(a) as being unpatentable over FADAIE (US 5328319).

FADAIE discloses a method and apparatus for handling objects (32) in which at least part of a load is gripped (see Fig. 3A and 4A), moved, and loaded. The objects gripped are being read as the claimed "modified arrangement".

FADAIE does not specifically disclose the objects as being rod-shaped.

However, the objects disclosed in FADAIE are cylindrical, and further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the method and apparatus of FADAIE to handle any shape of object to provide a wider choice of articles for the end-user.

Regarding claims 2 and 23, the gripper (50) can be clearly shown changing its geometry during use (see Fig. 5A and 5B).

Regarding claim 5, the gripper (50) can be clearly shown changing its spacing as it moves during use (see Fig. 5A and 5B).

Regarding claim 8, the final density shown in FADAIE is being read on the claimed "sought packing density".

Regarding claim 11, Fig. 4B clearly shows the objects being picked and loaded as a block.

Regarding claim 15, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the items row-wise or in any other manner that makes it easy and efficient for the operator.

Regarding claims 16, 42, and 46, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a second gripping device for further moving of the objects, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Regarding claim claims 21-22, it would have been obvious to one of ordinary skill in the art at the time the invention was made to position the loading aid at any angle that is most efficacious for loading, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Regarding claim 60, FADAIE discloses a robot (10) handling arm.

Response to Arguments

4. Applicant's arguments filed 1/7/2008 have been fully considered but they are not persuasive.

5. Applicant argues on page 16 of his Response that "However, Fadaie fails to provide any suggestion that the article engaging means changes the lateral spacing of the articles or the packaging density as claimed."

However, claim 8 recites only that "said gripping device modifies the objects forom said first ... arrangement to said modified .. arrangement .. based on a predetermined packing density."

Examiner maintains that the final density shown in FADAIE is being read on the claimed "sought packing density".

Examiner notes that during patent examination of the claims, the pending claims must be given their broadest reasonable interpretation consistent with the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 75 USPQ2d 1321 (Fed. Cir. 2005). *See also* MPEP § 2111. Moreover, while the claims of issued patents are interpreted in light of the specification, prosecution history, prior art and other claims, *this is not the mode of claim interpretation to be applied during examination*. During examination, the claims must be interpreted as broadly as their terms reasonably allow. *In re Am. Acad. of Sci. Tech Ctr.*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004). *See also* MPEP § 2111.01.

Art Unit: 3721

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.

/John R Paradiso/

Examiner John Paradiso: (571) 272-4466

March 31, 2008

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 272-4467

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)